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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/937,260

11/15/2001

Per Bruun Famme

213503

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7590

04/13/2004

LEYDIG VOIT & MAYER, LTD  
TWO PRUDENTIAL PLAZA, SUITE 4900  
180 NORTH STETSON AVENUE  
CHICAGO, IL 60601-6780

EXAMINER

CIRIC, LJILJANA V

ART UNIT

PAPER NUMBER

3753

DATE MAILED: 04/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/937,260

Applicant(s)

FAMME, PER BRUUN

Examiner

Ljiljana (Lil) V. Ciric

Art Unit

3753

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) 2-7,9 and 11-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,8 and 10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election with traverse of the seventh species (readable on claims 1, 8, and 10) in Paper No. 7 is acknowledged. The traversal is on the ground(s) that the claims corresponding to the first, third, fifth, and seventh species all depend from the same base claim, i.e., claim 1. This is not found persuasive because different (i.e., independent) species which include additional elements and/or different combinations of elements are made distinct and independent by the additional elements and/or combinations thereof. Dependence from the same base claim is not proof of a lack of distinctness between the species encompassed by the claims depending from the base claim.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 2 through 7, 9, and 11 through 15 are thus withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to the various nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 7.

### *Specification*

3. The abstract of the disclosure is objected to because the abstract provided in the parent PCT application includes language which may be implied (i.e., "The invention relates to..". Correction is required. See MPEP § 608.01(b).

### *Claim Rejections - 35 USC § 112*

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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5. Claims 1, 8, and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is not clear which sides of a plate heat exchanger are encompassed by the limitations "the primary and secondary sides" as recited in line 2 of the preamble of base claim 1, for which limitations there is furthermore no proper antecedent basis in the claims.

The limitation "close to or approximately the same as" relies on relative terms (i.e., "close to" and "approximately the same") which are not defined by the claim and which render the differential maintaining step indeterminate.

It is not clear what is meant by the limitation "is a sodium salt *uranine thereof*" as recited in claim 10.

The above is an indicative, but not necessarily an exhaustive, list of 35 U.S.C. 112, second paragraph, problems. Applicant is therefore advised to carefully review all of the claims for additional problems. Correction is required of all of the 35 U.S.C. 112, second paragraph problems, whether or not these were particularly pointed out above.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. As best can be understood in view of the indefiniteness of the claims, claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Grunwald.

Grunwald discloses the invention essentially as claimed, including supplying a colorant-containing liquid (i.e., the purplish colored aqueous solution of potassium permanganate) to one side of a

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heat exchanger plate or tube and detecting whether leakages are present by detecting the presence of the purplish color in a clear liquid supplied to the other side of the tube or plate.

The reference thus reads on the claim.

*Allowable Subject Matter*

8. Claims 8 and 10 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

*Conclusion*


9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ljiljana (Lil) V. Ciric, whose telephone number is (703) 308-3925. While she works a flexible schedule that varies from day to day and from week to week, Examiner Ciric may generally be reached at the Office during the work week between the hours of 10 a.m. and 6 p.m. ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Scherbel, can be reached on (703) 308-1272. The NEW central official fax phone number is (703) 872-9306. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.

lvc

April 4, 2004

  
LJILJANA V. CIRIC  
PRIMARY EXAMINER  
ART UNIT 3753